

TAB 10

INSTRUCTIONS FOR USE SPECIAL PROVISIONS FOR CONSTRUCTION OR DEMOLITION SUBCONTRACTS

These Special Provisions are to be used for all purchases of Fixed Price Construction or Demolition, unless the purchase is for a Commercial Item (Tab 6) or for the use of services from an affiliate, in which case an Affiliate Agreement (Tab 12) is appropriate. Subcontract Administrators and Buyers must review all of the instructions associated with the optional clauses and consult with Management to determine which clauses must be included. Note: The same process must be followed with respect to the clauses incorporated by reference.

SPECIAL PROVISIONS (SPs) FOR CONSTRUCTION OR DEMOLITION SUBCONTRACTS

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___SP.26	Availability of Funds <i>(Include if the Subcontract is not funded at time of award.)</i>

- ___SP.27 Limitation of Funds *(Include if the Subcontract is not fully funded. If this clause is used, include in the Pricing Schedule an allotment schedule showing the dates and amounts when it is contemplated that additional funds will be allotted to the Subcontract.)*
- ___SP.28 Options *(Include if the Subcontract includes options to increase quantities or extend the period of performance.)*
- ___SP.29 Special Safety Incentive *(Include this or alternate language that is developed for the particular acquisition if it is desired to incentivize safety performance.)*
- ___SP.30 Schedules for Construction Subcontracts *(Include this clause if the Statement of Work does not already include scheduling language.)*
- ___SP.31 Retainage *(Include this clause if it desired to hold retainage from Progress Payments. Clause would allow up to 10% retainage.)*
- ___SP.32 Liquidated Damages *(Include if liquidated damages are to be included. SA must also insert the appropriate amount of daily damages in the clause and include documentation in the Subcontract file supporting the decision that this amount is reasonable.)*
- ___SP.33 Classified Documents and Materials *(Include this clause if the Subcontractor needs to have access to classified information.)*
- ___SP.34 Provision of Certain Personnel *(Include this clause if the Subcontractor might be permitted to lease KH Steelworker labor in the performance of the Subcontract. Also attach a copy of the Steelworker Local 8031 Collective Bargaining Agreement (CBA) to the Subcontract.)*
- ___SP.35 Provision of Certain Personnel Covered by the Project Labor Agreement *(Include this clause if the Subcontractor might be permitted to lease KH Construction Trades labor in the performance of the Subcontract. Also attach a copy of the Project Labor Agreement.)*
- ___SP.36 Radiological Health Requirements *(Include this clause if the Subcontract involves the performance of work in radiological areas on the Site and the content is not covered in the Statement of Work.)*
- ___SP.37 Payment and Performance Bonds *(Include this clause if payment and performance bonds are required.)*
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- ___SP.42 Contractor-Furnished Services and Items (CFS/II) *(Include this clause if the Subcontractor may be provided Contractor-Furnished Services or Items, including leased labor.)*
- ___SP.43 Patent Rights *(Include this clause if this Subcontract is for experimental, developmental, or research work.)*
- ___SP.44 Key Personnel *(Include this clause if Key Personnel have been evaluated and/or control of the replacement of specified key personnel is required.)*
- ___SP.45 Modifications to General Provisions *(Include this clause if any of the General Provisions have been modified or deleted, and show the modifications under this clause.)*
- ___SP.46 Special Provisions Attachments *(Include this clause if any attachments to the Special Provisions have been called out and list the attachments under the clause.)*
- ___SP.47 Special Provisions Incorporated by Reference *(Include this clause if any of the FAR/DEAR clauses listed thereunder are required.)*

SPECIAL PROVISIONS FOR CONSTRUCTION OR DEMOLITION SUBCONTRACTS

SP.1 REQUIREMENTS FOR SUBCONTRACTOR'S EMPLOYEES

Subcontractor shall furnish competent, trained, and qualified employees experienced in the type of work to be performed. Subcontractor shall, if requested by Contractor, promptly remove at Subcontractor's cost any person considered by Contractor to be incompetent, unsatisfactory, or otherwise undesirable.

SP.2 WORK TO BE PERFORMED AND PLACE OF PERFORMANCE

The Subcontractor shall furnish all personnel (including all proper protective equipment), facilities, equipment, material, supplies, services, and travel (except as may be expressly set forth in this Subcontract as furnished by the Contractor) and otherwise do all things necessary for, or incident to, the performance of the Subcontract. The principal place of performance of this Subcontract shall be the Rocky Flats Environmental Technology Site (RFETS) near Golden, Colorado, and such other RFETS facilities as may be leased or acquired from time to time, or Subcontractor's facilities.

SP.3 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK

Subcontractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions that can affect the work or its cost, including but not limited to (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather or similar physical conditions at the Site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. Subcontractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the Site, including all exploratory work done by Contractor, as well as from the drawings and specifications made a part of this Subcontract. Any failure of Subcontractor to take the actions described and acknowledged in this paragraph will not relieve Subcontractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to Contractor.

Contractor assumes no responsibility for any conclusions or interpretations made by Subcontractor based on the information made available by Contractor. Nor does Contractor assume responsibility for any understanding reached or representation made concerning conditions, which can affect the work by any of its employees before the execution of this Subcontract, unless that understanding or representation is expressly stated in this Subcontract.

SP.4 PROJECT LABOR AGREEMENT

All work performed at the Site under this Subcontract must be performed in accordance with the following:

Project Labor Agreement for All Construction Work at RFETS, A Facility of the Department of Energy, between Kaiser-Hill Company, LLC and Colorado Building and Construction Trades Council, effective December 16, 1997.

The foregoing Project Labor Agreement (PLA) is hereby incorporated into and made a part of this Subcontract by reference.

Subcontractor shall pay wage rates and fringe benefits for each applicable classification of laborers and mechanics in accordance with the current PLA and the Davis-Bacon Act. The current Davis-Bacon Wage Classifications are incorporated into and made a part of this Subcontract. Should Subcontractor plan to use a classification of worker that is not subject to the (PLA) and for which Davis-Bacon wage rates are not included, Subcontractor shall contact the CTR to obtain a ruling by Contractor's Project Labor Coordinator on the applicable wage rates for the wage classification in question.

The PLA wage rates shall be appropriately used for all work performed under the Subcontract. For purposes of properly applying the requirements of the PLA under this Subcontract, the words "contractor" and "subcontractor" as used in the PLA shall mean "Subcontractor" and "lower-tier subcontractor" respectively.

The CTR shall designate a Project Labor Coordinator for this Subcontract who will coordinate the administration and enforcement of the PLA under this Subcontract. It is contemplated that from time to time the Coordinator shall implement reasonable rules and regulations pertaining to implementation of the PLA, which will ensure the uniform application of the terms and conditions of the PLA to this Subcontract.

SP.5 WORKPLACE SUBSTANCE ABUSE PROGRAM

Subcontractor shall, within thirty (30) days of award of this Subcontract, submit its written workplace substance abuse program for Contractor review and approval. This program shall, consistent with 10 CFR 707, Workplace Substance Abuse Programs

(incorporated herein by reference with full force and effect), demonstrate how Subcontractor has implemented and maintained a workplace substance abuse program that complies with the requirements of 10 CFR 707, Workplace Substance Abuse Programs.

In addition to any other remedies available to Contractor, Subcontractor's failure to comply with the requirements of 10 CFR 707 or to perform in a manner consistent with its approved program may render Subcontractor subject to (1) the suspension of Subcontract payments or (2) where applicable, termination for default and suspension or debarment.

Subcontractor agrees to include and require the inclusion of the requirements of this clause in all lower-tier subcontracts awarded hereunder.

SP.6 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK

Subcontractor shall be required to (1) begin work under this Subcontract within five (5) days after the date Subcontractor receives the notice to proceed, (2) prosecute the work diligently, and (3) complete the entire work as set forth by the Statement of Work.

Contractor shall not issue the Notice to Proceed until Subcontractor has completed the following requirements:

1. Enrolled in Contractor Controlled Insurance Program (CCIP) or provided the required insurance information (pursuant to Special Provision, Insurance).
2. Submitted Payment and Performance Bonds (pursuant to Special Provision, Payment and Performance Bonds).
3. Received approval of all lower-tier subcontractor's Safety and Health Worksheets (pursuant to Special Provision, Lower-Tier Subcontractor Pre-Qualification).
4. Submitted any other documentation so stipulated in the Statement of Work as required as a precedent to Notice to Proceed.

Subcontractor shall perform and make progress with the work in a prompt and diligent manner, without delay or interference to the completion of the work of Contractor or other entities. Subcontractor agrees to begin the several parts and the whole of work at such times and in such order as Contractor may direct, and in coordination with the work of Contractor and other entities engaged on the project, as directed by Contractor. Subcontractor recognizes that timely and compliant completion of its work within the time allowed is the essence of this Subcontract, and damages could result from late completion.

Contractor shall have the right to rely on Subcontractor providing such orderly and compliant performance; Subcontractor recognizes and acknowledges that Contractor shall be secure in such expectation and reliance. If reasonable grounds for insecurity do arise with respect to Subcontractor's performance, Contractor may, in writing, demand adequate assurance of due performance. The type of assurance required may be specified by Contractor and may include Subcontractor's written commitment to take necessary steps including, but not limited to, posting of bonds or security, acceleration, increase in work force or hours, and replacement and/or supplement of personnel, supervision, and equipment. The Contractor shall be sole determiner of the adequacy of Subcontractor's assurance.

Failure to provide the specified assurance within the time specified shall constitute a repudiation of this Subcontract, whereupon Contractor may terminate the Subcontract without further liability to Subcontractor and without prejudice to any other rights, and such termination shall not affect Subcontractor's obligations with respect to work performed before the effective date of termination.

SP.7 INSURANCE

Contractor has secured and shall maintain a Contractor Controlled Insurance Program (CCIP), insuring Contractor and all eligible and enrolled Subcontractors and lower-tier subcontractors (subcontractors) with the following types of insurance:

1. Workers' Compensation (Statutory)
2. Employer's Liability
3. Commercial General Liability
4. Excess Liability
5. Professional/Pollution Liability.

The specific limits, self-insured retention, and description of the coverages for the above insurance are contained in the CCIP Manual, which is hereby incorporated into the Subcontract by reference. In addition to the insurance coverages Contractor provides under the CCIP, Subcontractor shall maintain the insurance coverages as specified in the CCIP Manual. The purchase of insurance in excess of the policy terms and limits set forth in the CCIP Manual shall be subject to Contractor's written approval.

The costs of the self-insured retention are not allowable when the occurrence, which requires the payment of the self-insured retention, was caused by either—

1. The willful misconduct or lack of good faith of Subcontractor's managerial personnel, or
2. The failure to exercise prudent business judgment by Subcontractor's managerial personnel. The exercise of prudent business judgment relates to the decisions or actions of Subcontractor's managerial personnel in their capacity as management officials responsible for business judgments exercised in the performance of work under this Subcontract.

The term "Subcontractor's managerial personnel", as used above, means the President, the direct reports to the President, and their direct reports, constituting the top three levels of management.

In the event there is an occurrence involving more than one Subcontractor that could result in the payment of an insurance self-insured retention under the CCIP, Contractor shall notify each involved Subcontractor of the joint responsibility for payment of the self-insured retention. The involved Subcontractors shall have ten (10) days to agree among themselves to a proper share of the self-insured retention to be paid by each Subcontractor and so notify Contractor by joint letter. If the involved Subcontractors cannot agree on the share of the self-insured retention to be paid by each Subcontractor, then Contractor shall make such determination, which shall not be a dispute under the "Disputes" clause of this Subcontract.

Subcontractors not eligible for enrollment under the CCIP shall provide and maintain, with forms and insurers acceptable to Contractor until all of its obligations under this Subcontract are satisfied, the following insurance coverages:

1. Workers' Compensation Insurance to cover obligations imposed by Federal and state statutes having jurisdiction over Subcontractor's employees and Employer's Liability Insurance with a limit of not less than \$1,000,000 each accident.
2. Comprehensive Automobile Liability Insurance covering all owned, non-owned, hired, and leased vehicles used in performance of the services or work, both on- and off-Site. Such insurance shall provide a combined single limit of not less than \$1,000,000 for bodily injury and property damage, each occurrence (except, in the case of transportation of Hazardous Materials including Hazardous Waste, the combined single limit shall be \$5,000,000 each occurrence).
3. Commercial General Liability Insurance with a combined single limit of \$1,000,000 per occurrence. Such insurance shall include coverage for bodily injury, property damage, premises, blanket contractual liability, products, and completed operations, independent contractors, broad-form property damage, personal injury, and the hazards commonly referred to as "XCU."

Subcontractor may apply for exceptions or modifications to the insurance coverages stated above. Such request shall be in writing to the Subcontract Administrator and contain documentation that such coverages or limits are not readily obtainable including, if appropriate, documentary evidence that compliance is cost prohibitive.

Except for the Worker's Compensation Policy, Subcontractor shall require all lower-tier subcontractors to endorse the policies required above to name Contractor and Subcontractor and their respective directors, officers, employees, and agents as additional insureds. Such insurance shall provide a waiver of subrogation by Subcontractor and its insurer in favor of all CCIP enrollees and their respective directors, officers, employees, and agents.

Before beginning any work under this Subcontract, Subcontractor shall deliver the Certificates of Insurance to Contractor evidencing the coverages, limits, and endorsements specified above. These certifications shall provide 30 days advance written notice to Contractor of cancellation or non-renewal.

Subcontractor may procure, at its own cost, insurance to compensate Subcontractor for any unallowable or non-reimbursable costs not covered by the above requirements for losses incurred in connection with this Subcontract.

SP.8 INVOICING PROCEDURES

Unless otherwise agreed to in writing by the parties, the Contractor will make payments to the Subcontractor once per month after receipt of an acceptable invoice for services performed by Subcontractor and accepted by the Contractor. Subcontractor shall submit an original invoice and two copies to the following:

Send Original to: Accounts Payable

Rocky Flats Environmental Technology Site (RFETS)
10808 Highway 93, Unit B, MV-2
Golden, CO 80403-8200

Attn: _____ *[Insert appropriate Accounting Name]*

Accounting Phone _____ *[Insert Accounting Phone]*

Accounting Fax _____ *[Insert Accounting Fax]*

Send one (1) copy to: CTR

Rocky Flats Environmental Technology Site (RFETS)
10808 Highway 93, Unit B, *[Insert appropriate facility or MV-2, if appropriate.]*
Golden, CO 80403-8200

Attn: _____ *[Insert appropriate CTR Name.]*

CTR Phone _____ *[Insert CTR phone number.]*

CTR Fax _____ *[Insert CTR fax number.]*

Send one (1) copy to: Subcontract Administrator

Rocky Flats Environmental Technology Site (RFETS)
10808 Highway 93, Unit B, *[Insert appropriate facility or MV-2, if appropriate.]*
Golden, CO 80403-8200

Attn: _____ *[Insert Subcontract Administrator name.]*

SA Phone _____ *[Insert SA phone number.]*

SA Fax _____ *[Insert SA fax number.]*

An invoice must include – (1) name and address of Subcontractor; (2) invoice date; (3) Subcontract number and Line Item number of items being invoiced per the Pricing Schedule; (4) terms of any prompt payment discount offered; (5) name and address of official to whom payment is to be sent; and (6) name, title, and phone number of person to be notified in event of defective invoice. Subcontractors are encouraged to assign an identification number to each invoice.

The Subcontractor shall certify each request for payment as follows:

Subcontractor Certification: I certify, to the best of my knowledge and belief that (1) the amounts requested are only for performance in accordance with the specifications, statement of work, terms, and conditions of the Subcontract, (2) payments to lower-tier subcontractors and craft, to include appropriate taxes, covered by this certification, have been made in accordance with the Subcontract, (3) the amounts requested do not include any amounts that the Subcontractor intends to withhold or retain from a lower-tier subcontractor, and (4) the amounts requested do not include any amounts invoiced by any other means.

For final payment, the Subcontractor shall submit a completion (final) invoice or voucher, designated as such, promptly upon completion of the work. Upon approval of that invoice or voucher, and upon the Subcontractor's compliance with all terms of this Subcontract, the Contractor will promptly pay any balance of allowable costs and that part of fee (if any) not previously paid.

The Subcontractor shall pay to the Contractor any refunds, rebates, credits, or other amounts (including interest) accruing to or received by the Subcontractor or any assignee under the Subcontract, to the extent that those amounts are properly allocable to costs for which the Subcontractor has been reimbursed by the Contractor.

SP.9 INSPECTION/ACCEPTANCE

All workmanship performed under the Subcontract is subject to Contractor inspection at all times and places where services are being performed. Subcontractor shall furnish promptly, and at no increase in Subcontract price, all reasonable facilities, labor, and materials necessary for safe and convenient inspection by Contractor. Contractor shall perform inspections in a manner that will not unduly delay the work.

If any work or portion thereof is determined to be unsuitable, defective or in violation of any law, rule, or regulation, then Contractor shall have the right to withhold payment and, at its discretion, require re-performance or correction. With respect to nonconforming material or equipment supplied as part of Subcontractor's work, Contractor may also (1) reject and return the

items or (2) hold such items for Subcontractor's instructions at Subcontractor's risk and expense. Nonconforming items shall not be replaced without prior written authorization of Contractor. Subcontractor shall bear and pay all expenses related to nonconforming work, including without limitation costs of correction, return, or replacement, and indemnification of any fines or penalties assessed against the Contractor.

SP.10 DIFFERING SITE CONDITIONS

Subcontractor shall immediately upon discovery, and before the conditions are disturbed, provide written notice to the SA of (1) subsurface or latent physical conditions at the site of the work that differ materially from those indicated in this Subcontract or (2) unknown physical conditions at the site, of an unusual nature, that differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Subcontract.

The Contractor will investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Subcontractor's cost of, or the time required for, performing any part of the work under this Subcontract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the Subcontract modified in writing accordingly.

No request by the Subcontractor for an equitable adjustment to the Subcontract under this clause shall be allowed unless the Subcontractor has given the written notice required.

No request by the Subcontractor for an equitable adjustment to the Subcontract for differing site conditions shall be allowed if made after final payment under this Subcontract.

SP.11 INTEGRATION OF ENVIRONMENT, SAFETY, AND HEALTH INTO WORK PLANNING AND EXECUTION

If this Subcontract calls for the performance of work on the Site near Golden, Colorado, or such other RFETS facilities as may be leased or acquired from time to time, Subcontractor shall perform work safely and in accordance with the terms of DEAR 970.5223-1, Integration of Environment, Safety and Health into Work Planning and Execution (Dec 2000), which is incorporated herein by reference and made part hereof. The Subcontractor may obtain the full text of the referenced clause at <http://professionals.pr.doe.gov>. Wherever necessary to make the context of the clause applicable to this Subcontract, the term "Contractor" shall mean "Subcontractor", the terms "subcontractor" shall mean lower-tier subcontractor, the term "Contract" shall mean this Subcontract, the term "subcontract" shall mean "lower-tier subcontract," and where noted or necessary to derive proper meaning the terms "Government", "Contracting Officer", and equivalent phrases shall mean Contractor.

Unless otherwise specifically required in writing by Contractor, the Safety Management System referred to in Paragraphs (c), (d), and (e) of the clause is the Kaiser-Hill Safety Management System.

SP.12 LOWER-TIER SUBCONTRACTOR PRE-QUALIFICATION

For all on-Site work activities to be performed by lower-tier subcontractor(s), Subcontractor shall submit a completed Safety and Health Worksheet (attached hereto) for each lower-tier subcontractor. *[Attach Safety and Health Worksheet from S&H 001.]*

Lower-tier subcontractor Safety and Health Worksheets shall be submitted to CTR no later than ten (10) days prior to lower-tier subcontract award by Subcontractor. The CTR will notify Subcontractor of pre-qualification results within five days after receipt of pre-qualification information. Subcontractor shall only use pre-qualified lower-tier subcontractors for on-Site activities.

SP.13 PROTECTION OF EXISTING STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS

Subcontractor shall preserve and protect all structures and equipment on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this Subcontract. Subcontractor shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by Subcontractor. Subcontractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this Subcontract or failure to exercise reasonable care in performing the work. If Subcontractor fails or refuses to repair the damage promptly, Contractor may have the necessary work performed and charge the cost to Subcontractor.

SP.14 OPERATIONS AND STORAGE AREAS

Subcontractor shall confine all operations (including storage of materials) on Site premises to areas authorized or approved by Contractor. Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by Subcontractor only with the approval of Contractor and shall be built with labor and materials furnished by Subcontractor without expense to Contractor. The temporary buildings and utilities shall remain the property of Subcontractor and shall be removed by Subcontractor at its expense upon completion of the work. With the written consent of the Contractor, the buildings and utilities may be abandoned and need not be removed.

Subcontractor shall, under regulations prescribed by Contractor, use only established roadways, or use temporary roadways constructed by Subcontractor when and as authorized by Contractor. When materials are transported in executing the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, state, or local law or regulation. When it is necessary to cross curbs or sidewalks, Subcontractor shall protect them from damage. Subcontractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

SP.15 CLEANING UP

Subcontractor shall at all times keep the work area (including storage areas), orderly, and free from accumulations of waste materials. Before completing the work, Subcontractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of Contractor or the Government. After completing the work, Subcontractor shall leave the work area in a clean, neat, and orderly condition satisfactory to Contractor.

SP.16 ACCIDENT PREVENTION

Subcontractor shall provide and maintain work environments and procedures which will (1) safeguard the public and Contractor personnel, property, materials, supplies, and equipment exposed to Subcontractor operations and activities; (2) avoid interruptions of Contractor operations and delays in project completion dates; and (3) control costs in the performance of this Subcontract.

For these purposes, Subcontractor shall –

1. provide appropriate safety barricades, signs, and signal lights;
2. comply with the standards issued by the Secretary of Labor at 29 CFR 1926 and 29 CFR 1910; and
3. ensure that any additional measures Contractor determines to be reasonably necessary for the purposes are taken.

Whenever Contractor becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Contractor personnel, Contractor shall notify Subcontractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to Subcontractor or Subcontractor's representative at the work Site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, Subcontractor shall immediately take corrective action. If Subcontractor fails or refuses to promptly take corrective action, Contractor may issue an order suspending all or part of the work until satisfactory corrective action has been taken. Subcontractor shall not be entitled to any equitable adjustment of the Subcontract price or extension of the performance schedule on any suspension of work order issued under this clause.

Subcontractor shall insert this clause, including this paragraph, with appropriate changes in the designation of the parties, in lower-tier subcontracts.

SP.17 OTHER SUBCONTRACTS

Contractor may undertake or award other subcontracts for additional work at or near the site of the work to be performed under this Subcontract. Subcontractor shall fully cooperate with other subcontractors and with Contractor employees and shall carefully adapt scheduling and performance of the work under this Subcontract to accommodate the additional work, heeding any direction that may be provided by Contractor. Subcontractor shall not commit or permit any act that will interfere with the performance of work by any other subcontractor or by Contractor employees.

SP.18 WAIVER OF LIENS

Subcontractor covenants that no mechanic's liens or claims shall be filed or maintained against the work performed hereunder, including the adjacent land, for or on account of any work or labor done or materials furnished in connection with this Subcontract. Subcontractor expressly waives all rights to file or maintain any such liens or claims and agrees that waiving this right shall be an independent covenant and shall operate and be effective with respect to work and labor done and materials furnished under any supplemental contract or contract for extra or additional work.

If any mechanic's lien or other claim shall be filed by Subcontractor, its lower-tier subcontractors or suppliers, relating to work furnished under this Subcontract, Subcontractor shall, within ten (10) days after notification thereof, discharge such lien or claim or otherwise make provision satisfactory to Contractor. Contractor may withhold any money due Subcontractor until such lien or liens are discharged or paid.

SP.19 CONTRACTOR WORK HOURS AND HOLIDAYS

The Contractor works an Alternate Work Schedule (AWS). The normal workweek is as follows: Monday through Thursday 7:00 am to 4:30 pm, Friday 7:00 am to 3:30 pm, alternate Fridays off. Shipping/Receiving and badging are only open during the normal workweek. Shipping/Receiving accepts deliveries from 7:00 am to 3:15 pm, Monday through Thursday, and 7:00 am to 2:30 pm on working alternate Fridays. Unless otherwise authorized by the Contractor, no deliveries shall be made nor work performed on-Site during observed holidays, on alternate Fridays off, or outside the hours cited herein.

The Contractor observes the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving Day, and Christmas Day.

SP.20 WARRANTY

In addition to any other warranties in this Subcontract, Subcontractor warrants, except as provided herein, that work performed under this Subcontract conforms to the Subcontract requirements and is free of any defect, whether patent or latent, in equipment, material, or design furnished, or workmanship performed by Subcontractor or any subcontractor or supplier at any tier. Subcontractor further warrants that the items are free and clear of all liens and encumbrances, and that Subcontractor has secured Contractor's right to own, sell or use such items. Subcontractor shall transfer all manufacturer or vendor warranties associated with the goods supplied to Contractor and/or entity designated by Contractor. For purposes of this Subcontract, material or equipment supplied shall include any documentation, such as quality control or test records or certificates of compliance, that may be specified or are customarily furnished in the trade.

This warranty shall continue for 1 year from the date of final acceptance of the work. If Contractor takes possession of any part of the work before final acceptance, this warranty shall continue for 1 year from the date Contractor takes possession.

Subcontractor shall remedy at Subcontractor's expense any failure to conform, or any defect, resulting from Subcontractor's breach of warranty. In addition, Subcontractor shall remedy at Subcontractor's expense any damage to Contractor- or Government-owned or controlled real or personal property, when that damage is the result of- (1) Subcontractor's failure to conform to Subcontract requirements or (2) any defect of equipment, material, workmanship, or design furnished. If Subcontractor fails to replace or correct any such work within ten (10) calendar days after receipt of written notice from Contractor or as otherwise specified by Contractor, Contractor may, at its sole option, cause such work to be replaced or corrected and Subcontractor shall be liable for all costs and expenses incurred, notwithstanding such stipulated period for correction by Subcontractor. In the event the nonconforming work poses an immediate and serious threat to the safety of others or to the environment, then Contractor shall cause correction of the nonconformance by the most expedient means available, and Subcontractor shall be liable and responsible for all costs and expenses related thereto.

Subcontractor shall restore any work damaged in fulfilling the terms and conditions of this clause. Subcontractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

Contractor shall notify Subcontractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage. In the event Subcontractor's warranty under this clause has expired, Contractor may bring suit at its expense to enforce a lower-tier subcontractor's, manufacturer's, or supplier's warranty.

Unless a defect is caused by the negligence of Subcontractor or subcontractor or supplier at any tier, Subcontractor shall not be liable for the repair of any defects of material or design furnished by Contractor nor for the repair of any damage that results from any defect in Contractor-furnished material or design.

This warranty supercedes any lesser warranty, whether stated or implied, that may be contained in submittals or other documentation delivered to Contractor by Subcontractor, regardless of whether the submittals or other documentation is accepted or otherwise approved by Contractor, unless a lesser warranty is specifically identified and agreed to in writing as part of this Subcontract. This warranty shall not limit Contractor's rights under the Inspection/Acceptance clause of this Subcontract with respect to latent defects, gross mistakes, or fraud.

SP.21 SUSPECT COUNTERFEIT ITEMS

The Subcontractor warrants that all items provided to the Contractor shall be new and unused unless otherwise specified in writing by the Contractor. Subcontractor further warrants that all items used by the Subcontractor during the performance of work at the Rocky Flats Environmental Technology Site, include all genuine, original, and new components, or are otherwise suitable for the intended purpose. Furthermore, the Subcontractor shall indemnify the Contractor, its agents, and third parties for any financial loss, injury, or property damage resulting directly or indirectly from material, components, or parts that are not genuine, original, and unused, or not otherwise suitable for the intended purpose. This includes, but is not limited to, materials that are defective, suspect, or counterfeit; materials that have been provided under false pretenses; and materials or items that are materially damaged, deteriorated, degraded, or result in product failure.

Types of material, parts, and components known to have been misrepresented include (but are not limited to) fasteners; hoisting, rigging, and lifting equipment; cranes; hoists; valves; pipe and fittings; electrical equipment and devices; plate, bar, shapes, channel members, and other structural items; and welding rod and electrodes. The Subcontractor's warranty also extends to labels and/or trademarks or logos affixed, or designed to be affixed, to items supplied or delivered to the Contractor. In addition, because falsification of information or documentation may constitute criminal conduct, the Contractor may reject and retain such information or items, at no cost, and identify, segregate, and report such information or activities to cognizant Department of Energy officials.

SP.22 CONTRACTOR PURCHASE OF SUBCONTRACTOR EQUIPMENT

In the event of contamination of Subcontractor equipment (if equipment is properly used by Subcontractor and such equipment cannot be appropriately decontaminated), or damage to Subcontractor equipment (attributed solely to the actions of the Contractor), Contractor shall purchase such Subcontractor equipment at the then existing fair market value. Fair market value will be determined by either (1) the book value of the equipment on Subcontractor's accounting records or (2) through a market survey that establishes a market price for the equipment, whichever is less. Items with a fair market value of less than \$1,000 per item shall be considered expendable and therefore not subject to the purchase provisions of this clause.

SP.23 POSSIBILITY OF CONTAMINATION OF SUBCONTRACTOR-OWNED MATERIALS AND EQUIPMENT

Subcontractor's equipment may become contaminated during the course of the work. All Subcontractor equipment must be fully decontaminated prior to removal from the work area. Subcontractor shall submit decontamination and contaminated material control procedures as part of the Environmental, Safety, and Health Plan for Contractor's review and acceptance. Subcontractor shall obtain Contractor's authorization to remove any equipment from the Site.

Contractor will survey Subcontractor's equipment upon arrival at the Site to establish a radiation contamination profile as a baseline. The equipment shall meet Contractor's health physics standards for radioactivity before it will be permitted to enter the work area. Any radioactive materials that are present must be in the form of surface contamination and shall not exceed the levels prescribed by the Site.

Subcontractor shall inform Contractor of specific contaminants that could be left over from previous work so that Contractor can define the tolerable levels for the non-Contractor radioactive contaminants. Any preliminary decontamination that may be required to remove non-Contractor radioactive contaminants will be at Subcontractor's expense. Subcontractor will solely be responsible for the disposal of all wastes generated as a result of preliminary decontamination to remove non-Contractor radioactive contaminants. Neither the Contractor nor the Government shall be designated as a generator of such waste.

The equipment shall also be free on non-radioactive hazardous contaminants upon arrival at the Site. Verification shall be supplied by Subcontractor that the equipment does not contain hazardous contaminants upon arrival, including residual hazardous contaminants that might be hidden inside equipment. In the event that the equipment is found to be contaminated with non-Contractor non-radioactive hazardous contaminants upon arrival, Subcontractor will not be permitted to begin work until the equipment is free of significant (non-trace) non-Contractor contamination, as defined by Contractor. Any preliminary decontamination to remove non-Contractor hazardous contaminants that may be required will be at Subcontractor's expense. Subcontractor will solely be responsible for the disposal of all wastes generated as a result of preliminary decontamination to remove non-Contractor non-radioactive hazardous contaminants. Neither the Contractor nor the Government shall be designated as the generator of non-Contractor non-radioactive or hazardous waste.

Upon completion of the work, Contractor will survey and inspect Subcontractor's equipment before it is removed from the work area to establish a post-processing radiation contamination profile. If the equipment decontamination profile exceeds Site restrictions, Subcontractor shall carry out the necessary radioactive decontamination at the work site according to Subcontractor's procedures.

Subcontractor shall take all reasonable measures to mitigate the potential for contamination of its equipment during performance of the work. If the Contractor determines that required exit decontamination limits, as set forth in the Subcontract documents, of any piece of equipment is unattainable, despite Subcontractor's best efforts, Subcontractor will be compensated for the appraised value of the equipment considering age, condition, and value of similar equipment, unless contamination of said equipment is deemed by Contractor to be the result of carelessness or negligence on the part of the Subcontractor. If a value cannot be agreed on, an independent appraiser may be used to determine value.

Subcontractor shall identify, in advance of use, all items of equipment to be used in performance of that work that, because of the nature or configuration of the equipment, may be reasonably expected not to be capable of being decontaminated through reasonable efforts. Subcontractor shall be responsible for the cost of all such equipment, and will not receive compensation for this equipment pursuant to the paragraph above.

SP.24 RESPONSIBILITIES FOR SUBCONTRACTOR'S MATERIALS

Subcontractor shall be responsible for all receiving, unloading, inspecting, and storing its materials delivered to the Site and work performed until completion and acceptance of the entire work, except for any completed unit of work that may have been accepted under the Subcontract. Subcontractor shall, at its expense, be solely responsible for protecting and maintaining security of its equipment, materials, property and employees at all times. Neither Contractor nor the Government shall assume responsibility or liability for any security measures taken by Subcontractor.

SP.25 MANDATORY FLOWDOWN OF CERTAIN STATEMENT OF WORK REQUIREMENTS

Subcontractor shall include the following Statement of Work requirements in any lower-tier subcontracts:

1. Hazardous Material Requirements
2. Site Access and Transportation Requirements
3. Notice of Radioactive Materials.

SP.26 AVAILABILITY OF FUNDS

Funds are not presently available for this Subcontract. The Contractor's obligation under this Subcontract is contingent upon the availability of funds from which payment for subcontract purposes can be made. No legal liability on the part of the Contractor for any payment may arise until funds are made available to the Contractor for the Subcontract and until the Subcontractor receives notice of such availability, to be confirmed in writing by the Contractor.

SP.27 LIMITATION OF FUNDS

This Subcontract is incrementally funded. The Pricing Schedule specifies the amount presently available for payment by the Contractor and allotted to this Subcontract, the items covered, and an allotment schedule that sets forth the dates and amounts it is expected that Contractor will allot additional funds to the Subcontract. ***[Allotment schedule must set forth the work that is incrementally funded, as identified by line items, the total Not-to-Exceed amount of the funded portion of the Subcontract for that work, and the dates and amounts when it is expected that addition funds will be allotted to the Subcontract for that work.]***

The parties contemplate that the Contractor will allot additional funds incrementally to the Subcontract up to the full price specified in the Pricing Schedule. For the incrementally funded portion of the Subcontract, the Subcontractor agrees to perform, or have performed, work on the Subcontract up to the point at which the total amount paid and payable by the Contractor under the Subcontract, including reimbursement in the event of termination of the Subcontract for the Contractor's convenience, approximates but does not exceed the total amount actually allotted by the Contractor to the Subcontract. The Subcontractor will not be obligated to continue work on the Subcontract for the incrementally funded work beyond that point, and the Contractor will not be obligated in any event to reimburse the Subcontractor in excess of the amount allotted to the Subcontract for that work regardless of anything to the contrary in the clause entitled Termination for Convenience in the General Provisions of this Subcontract. As used in this clause, the total amount payable by the Contractor in the event of termination for convenience includes costs, profit on work performed, and estimated termination settlement costs for the terminated work.

For the incrementally funded work, the Subcontractor shall notify the Contractor in writing whenever it has reason to believe that the costs it expects to incur under this Subcontract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the total amount so far allotted to the Subcontract by the Contractor for that work. The notice shall state the estimated amount of additional funds required to continue performance of that work up to the next scheduled date for allotment of funds specified in the Pricing Schedule, or to a mutually agreed upon substitute date. The notice shall also advise Contractor of the estimated additional funds that will be required for the timely performance of the incrementally funded portion of the Subcontract for a subsequent period as may be specified in the allotment schedule or as otherwise agreed to by the parties.

If, after notification, additional funds are not allotted by the date identified in the Subcontractor's notification, or by an agreed-on substitute date, upon the Subcontractor's written request, the Contractor will terminate the incrementally funded portion of the Subcontract on that date in accordance with the provisions of the Termination for Convenience clause of the General Provisions of this Subcontract. If the Subcontractor estimates that the funds available will allow it to continue to discharge its obligations beyond that date, it may specify a later date in its request, and the Contractor may terminate this Subcontract on that later date.

Except as required by other provisions of this Subcontract, specifically citing and stated to be an exception to this clause-

1. The Contractor is not obligated to reimburse the Subcontractor for costs incurred in excess of the total amount allotted by the Contractor to this Subcontract; and
2. The Subcontractor is not obligated to continue performance under this Subcontract (including actions under the Termination for Convenience clause of this Subcontract) or otherwise incur costs in excess of the amount then allotted to the Subcontract by the Contractor until the Contractor notifies the Subcontractor in writing that the amount allotted by the Contractor has been increased and specifies an increased amount, which shall then constitute the total amount allotted by the Contractor to this Subcontract.

No notice, communication, or representation in any form other than that specified in the second paragraph of this clause, or from any person other than the Contractor, shall affect the amount allotted by the Contractor to this Subcontract. In the absence of the specified notice, the Contractor is not obligated to reimburse the Subcontractor for any costs in excess of the total amount allotted by the Contractor to this Subcontract, whether incurred during the course of the Subcontract or as a result of termination.

Any costs the Subcontractor incurs before the increase that are in excess of the amount previously allotted by the Contractor shall be allowable to the same extent as if incurred afterward—to the extent that the amount allotted by the Contractor to the Subcontract is increased—unless the Contractor issues a termination or other notice and directs that the increase is solely to cover termination or other specified expenses.

Change orders shall not be considered an authorization to exceed the amount allotted by the Contractor specified in the Pricing Schedule, unless they contain a statement increasing the amount allotted.

SP.28 OPTIONS

Options to extend the term of the Subcontract or increase/decrease quantities, if any, are identified in the Pricing Schedule. If options are included, Contractor may exercise the option by written notice to the Subcontractor provided that said notice to extend the term or increase/decrease quantities is provided to Subcontractor at least ten (10) days before the expiration of the Subcontract.

If the Contractor exercises this option, the extended or changed Subcontract shall be considered to include this option clause.

SP.29 SPECIAL SAFETY INCENTIVE

In recognition of the importance of safe work performance under the Subcontract and in addition to any other incentive program(s) the Subcontractor may have in place, the parties agree that safe work practices under the Subcontract will be incentivized as follows:

1. *[Insert a reasonable percentage-spelled out here; numeral in next blank.]* percent (~~X~~)% of the original Subcontract Firm Fixed Price ("Subcontract price") but not less than \$25,000 (herein referred to as "total incentive") is available as additional compensation to Subcontractor as set forth by this Special Incentive clause. Conversely, Subcontract price may be adjusted downward as set forth below.
2. Nothing in this clause shall be restrictive of any Contractor rights under other clauses of the Subcontract.
3. The Subcontractor shall reward its personnel having the best safety records in the form of safety awards and incentives as determined by Subcontractor. The Subcontractor shall share at least 50% of earnings under this clause with employees assigned to the work at RFETS.
4. Safety Incidents are defined as any safety infraction or deficiency. Examples include, but are not limited to, the following:
 - a. working in unprotected trenches, excavations, or unauthorized entry into confined spaces
 - b. failure to properly use tools, stationary and heavy equipment
 - c. failure to properly use personal protective equipment (i.e., safety glasses, hard hats, fall protection, etc.)
 - d. failure to follow / comply with Subcontract Project Health and Safety Plan (PHASP) or other health and safety requirements contained within the Subcontract.
 - e. failure to report work-related injuries, illnesses, or accidents.
5. The actual incentive award for Subcontractor safe performance is solely determined by Contractor based on Subcontractor performance compared to safety standards and the requirements applicable to the Subcontract as follows:
 - a. Safety Incidents will incur the reward or penalty points as set forth below.

SUBCONTRACTOR SAFETY INCENTIVE PROGRAM

The following information is provided to explain the system that will be used with regard to Subcontractor Safety Incentive citations and penalties. Described are the violation classifications and the associated minimum to maximum number of points that the Contractor can assign should one of these violation classifications occur. The Contractor is the final authority with respect to the points that may be assigned for each violation classification, with consideration of the Subcontractor's responsiveness and good faith in abating violations in the Contractor's sole discretion.

Classifications

Violation Type	Pt. Scale (Min. Max.)
Subcontractor Self-Identified Safety Violation – A violation identified, abated, and properly documented by the Subcontractor.	0
<i>Contractor Identified Safety Violations</i>	
Good Safety Practice Observation – A positive act or condition performed by the Subcontractor that is observed by the Contractor and is above and beyond minimum safety and health requirements and/or expectations.	+1 to +5 (Credit)
<i>De Minimis</i> Violation - A violation of a standard that has no direct or immediate relationship to safety or health.	0
Other Than Serious Violation - A violation that has a direct relationship to job safety and health but probably would not cause death or serious physical harm.	-1 to -5
Serious Violation - A violation where there is substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard.	-5 to -30
Failure to Abate Prior Violation - Failure to abate a prior violation (all classifications) that was cited by either the Contractor or Subcontractor.	-5 to -30
Repeated/Systemic Violation - A violation of any standard, regulation, rule, or order where, upon re-inspection, a substantially similar violation occurs.	-10 to -30
OSHA Recordable Case - Those cases as defined in 29 CFR 1904.	-20
OSHA Day-Away-From-Work Case - OSHA recordable cases that involve days away from work.	-30
Willful Violation – A violation that the employer knowingly commits or commits with plain indifference to the law. The employer either knows that what he or she is doing constitutes a violation, or is aware that a hazardous condition existed and made no reasonable effort to eliminate it.	-116
Work Related Fatality - Any occupational injury or illness that results in death.	-116

Safety Incentive Scale

The following scale depicts a stepped safety incentive based upon percentage. This percentage is determined by the number of points the Subcontractor incurs during the period of performance. Depending on the percentage, the Subcontractor may be eligible to receive the dollar amount shown or be obligated to pay.

Dollar Amount Available	Percent of Safety Incentive	Points Allowed to Receive Safety Incentive	
		Minimum	Maximum
Dollars as specified by Subcontract	100	+0	-25
	80	-26	-35
	60	-36	-45
	40	-46	-55
	20	-56	-65
	0	-66	-75
	-20	-76	-85
	-40	-86	-95
	-60	-96	-105
	-80	-106	-115
	-100	≥-116	-

- b. Determination and distribution of the actual incentive will occur as part of final payment in accordance with the following process and conditions:
 - i. The Subcontractor shall submit with its final invoice a Safety Incentive Notification and, if applicable, a request for incentive fee payment. The Safety Incentive Notification shall provide the Subcontractor's evaluation of its

- performance in accordance with this clause, and include Subcontractor's calculation, based on the evaluation, of the amount of incentive fee due the Subcontractor or the amount of total compensation to be withheld by the Contractor.
- ii. If Subcontractor fails to submit a timely Safety Incentive Notification, the Contractor shall unilaterally determine the amount due or to be withheld.
 - i. The final safety incentive amount to be paid to or withheld from the Subcontractor under this clause is determined solely by the Contractor and is not subject to the Disputes clause.
- c. Any Safety Incident identified by Contractor will be promptly communicated to the Subcontractor. Such notification will be submitted in writing, by the CTR to the Subcontractor's Project Manager.

SP.30 SCHEDULES FOR CONSTRUCTION SUBCONTRACTS

The Subcontractor shall, within five (5) days after written request from Contractor, prepare and submit to the Contractor for approval three (3) copies of a practicable schedule showing the order in which the Subcontractor proposes to perform the work, and the dates on which the Subcontractor contemplates starting and completing the several key elements of the work (including acquiring materials, plant, and equipment, to include Contractor-furnished services and items). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Subcontractor fails to submit a schedule within the time prescribed, the Contractor may not issue the Notice to Proceed, or withhold payments due the Subcontractor until the Subcontractor submits the required schedule.

The Subcontractor shall enter the actual progress determined by the Contractor on the chart (including Contractor-furnished services and items usage), and upon doing so shall immediately deliver three (3) copies of the annotated schedule to the Contractor. If, in the opinion of the Contractor, the Subcontractor falls behind the approved schedule, the Subcontractor shall take steps necessary to improve its progress, including those that may be required by the Contractor, without additional cost to the Contractor. In this circumstance, the Contractor may require the Subcontractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contractor deems necessary to demonstrate how the approved rate of progress will be regained.

Failure of the Subcontractor to comply with the requirements of the Contractor under this clause shall be grounds for a determination by the Contractor that the Subcontractor is not executing the work with sufficient diligence to ensure completion within the time specified in the Subcontract. Upon making this determination, the Contractor may terminate the Subcontractor's right to proceed with the work, or any separable part of it, in accordance with the General Provision, Suspension of Work or Termination for Default, of this Subcontract.

SP.31 RETAINAGE

If the Contractor finds that satisfactory progress was achieved during any period for which a progress payment is to be made, Contractor will authorize payment to be made for the amount of work performed to date, less any previously paid amounts, and less ten (10) percent as retainage. However, if satisfactory progress has not been made, Contractor may retain additional amounts of the payment until satisfactory progress is achieved. When the work is substantially complete, Contractor may retain from previously withheld funds and future progress payments that amount Contractor considers adequate for protection of Contractor and release to Subcontractor all the remaining withheld funds.

Contractor will pay the amount due Subcontractor under this Subcontract, including release of all retainage amounts after—

1. completion and acceptance of all work;
2. presentation of a properly executed invoice; and
3. presentation of a release of all claims against Contractor arising by virtue of this Subcontract, other than claims, in stated amounts, that Subcontractor has specifically excepted from the operation of the release. A release may also be required of the assignee if Subcontractor's claim to amounts payable under this Subcontract has been assigned under the terms of this Subcontract.

The parties expressly agree that the issue of retainage will be re-evaluated at periodic points during execution of the Subcontract. If Subcontractor's performance is fully satisfactory, Contractor may agree to either release retained amounts for the items, work elements, or milestone events that have been completed, and/or reduce the amount of retainage.

SP.32 LIQUIDATED DAMAGES

If the Subcontractor fails to complete the work within the time specified in the Subcontract, or any extension, the Subcontractor shall pay to the Contractor as liquidated damages, the sum of \$ ____*[Insert the amount per day of damages]*_____ for each day of delay.

If the Contractor terminates the Subcontractor's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs incurred by the Contractor in completing the work.

If the Contractor does not terminate the Subcontractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted.

SP.33 CLASSIFIED DOCUMENTS AND MATERIALS

Subcontractor shall, in accordance with DOE security regulations and requirements, be responsible for safeguarding all classified documents and materials and protecting against sabotage, espionage, and loss or theft of the classified documents and materials in the Subcontractor's possession in connection with the performance of work under this Subcontract. Except as otherwise expressly provided in this Subcontract, the Subcontractor shall, upon completion or termination of this Subcontract, transmit to Contractor a Certificate of Non-Possession of Classified Documents and Materials, which indicates that Subcontractor has returned to authorized representatives of the DOE or disposed of, in accordance with DOE security requirements, all classified documents and materials that were formerly held by Subcontractor under this Subcontract. ***[Attach Certificate of Non-Possession and list it in the clause, Special Provisions Attachments.]*** Subcontractor's failure to provide the required Certificate of Non-Possession of Classified Documents and Materials within thirty (30) days of completion or termination of the Subcontract, may, in addition to any other remedy available under law, result in assessment of \$250.00. The charge shall be deducted from payments otherwise due the Subcontractor.

SP.34 PROVISION OF CERTAIN PERSONNEL

The Contractor and Subcontractor agree that, during the term of this Subcontract, the Subcontractor shall accept assignment from Contractor of certain skilled union workers presently performing work at RFETS who are not otherwise employees of the Subcontractor and who are members of a recognized collective bargaining agreement, including without limitation, union members of the United Steelworkers of America, Local 8031, AFL-CIO-CLC (Assigned Workers), who are working and/or available at the RFETS in accordance with the terms of the Collective Bargaining Agreement (CBA). Assigned Workers shall only be used to perform work within the scope of this Subcontract. Subcontractor recognizes Contractor as signatory employer, responsible for administration and interpretation of the CBA with the United Steelworkers of America Local 8031 and Subcontractor agrees to provide work direction and supervision to Assigned Workers and operate in compliance with the terms of the CBA, attached. ***[Attach the CBA.]***

The Contractor will, in accordance with the terms and conditions hereof, assign Skilled Workers to the Subcontractor in numbers as agreed to by the parties. During the time that any worker is assigned to the Subcontractor, all conditions of that worker's employment will be in accordance with the terms of the CBA and the applicable policies and procedures of the Contractor. These terms shall include, but not be limited to, wages, seniority, job placement, leaves and layoffs, hours of work, overtime provisions, premium pay provisions, vacations, holidays, pensions, health and welfare, group insurance, grievance procedures, arbitration rights, and general provisions. In addition, Contractor and Subcontractor may negotiate in good faith any additional terms and conditions to apply to their employment, provided, however, such additional terms and conditions do not run contrary to the terms and conditions of the CBA.

Unless otherwise specifically provided in a written agreement between the Contractor and the Subcontractor, the Subcontractor shall be responsible to the Contractor for all costs, expenses, and liability associated with this Subcontractor's use of an Assigned Worker, including requirements of the CBA and the acts or omissions of the Subcontractor or any of its servants, agents, subcontractors, or employees, including the Assigned Workers assigned by the Contractor to the Subcontractor. Contractor shall not be responsible for either the quantity nor quality of work performed by Assigned Workers used by Subcontractor.

Subcontractor shall require its Assigned Workers comply with all applicable Federal, state, and local statutes, ordinances, regulations, and rules pertaining to occupational safety and health including rules and practices required by DOE, the Contractor, and Subcontractor. Subcontractor shall provide a suitable place of employment for its Assigned Workers to perform work. Further, Subcontractor shall provide all materials, supplies, facilities, space, and equipment, including protective clothing and equipment, as defined in Article XIV, Section 9 of the CBA, necessary for its Assigned Workers to perform their assigned duties. Subcontractor shall maintain an accident reporting system acceptable to the Contractor and shall immediately forward to Contractor a copy of each accident report involving injuries to or death of any Assigned Worker.

During term of usage, an Assigned Worker shall be treated by Subcontractor as a matrixed employee of the Subcontractor for all purposes and, in every respect; such Assigned Worker's services during the term of the assignment shall be subject to the actual control, direction, and supervision of the Subcontractor. The risk of any loss, damage, or liability arising out of the actions of the Assigned Worker during the term of the assignment shall be with and upon the Subcontractor and not with and upon the

Contractor. The loss of use of an Assigned Worker for any reason (training, vacation, illness, injury, etc.) is not the responsibility of the Contractor.

The Contractor shall be responsible for the payment of all compensation and other benefits to the Assigned Workers and for the required withholding, including applicable taxes, relating to compensation and other benefits paid to the Assigned Worker.

The Subcontractor shall supply to the Contractor, in such form and substance and for such time intervals as the Contractor shall reasonably require, reports detailing the hours worked by each such Assigned Worker, the task numbers or other work/project designations assigned to that Assigned Worker's hours, and any other similar information reasonably requested by the Contractor.

All disputes with any such Assigned Worker (or his or her union) that are governed by the terms of the CBA shall be resolved in accordance with the CBA. The Subcontractor shall cooperate fully (and at its expense) with the Contractor in resolving such disputes to include reinstatement and/or the payment of back pay to the aggrieved Assigned Worker who is returned to his employment or who is found to have been treated in contradiction of the provisions of the CBA. The provisions of this paragraph are without prejudice to Contractor's other rights as established and set forth in the Subcontract.

Subcontractor agrees to communicate to its Contractor designated Labor Relations or Human Resources personnel any situation or occurrence related to Assigned Workers that –

1. may affect the employer-employee relationship;
2. be considered a violation of the CBA;
3. result in disciplinary action;
4. establish a precedent under the CBA; or
5. adversely affect other subcontractors using Assigned Workers, whether resolved or not at the Subcontractor level.

It is understood that Subcontractor will be the primary management participant in resolving problems or grievances at the employer/supervisor level (first step) in accordance with the procedures of the CBA. Subcontractor agrees to participate in grievance resolution with Contractor up to and including arbitration. Subcontractor recognizes Contractor's authority to direct the resolution of grievances, if deemed necessary, from the second step up to and including arbitration, once they have advanced to that level where they have become potentially precedent-setting or may affect other subcontractors or the Site-wide labor relations program. The costs (including the costs of Subcontractor management participation in the process and Subcontractor legal expenses) of arbitration, grievance processing, legal fees, back pay awards, etc. shall be borne by the Subcontractor.

Contractor will maintain centralized files or a database reflecting the classifications, training records, skills, and relative seniority of Assigned Workers. This information will be used to assist in the assignment of Assigned Workers to the Subcontractor. Contractor and Subcontractor will designate a Point-of-Contact for Labor Relations.

Subcontractor recognizes Contractor's right to provide training at the Contractor's cost to its Assigned Workers that is necessary for them to meet Site-wide requirements. Training scheduling will be coordinated with Subcontractor.

Subcontractor recognizes Contractor's right to communicate either orally or in writing to Assigned Workers. Such communication shall be designed so as not to disrupt on-going work and will be made available to Subcontractor prior to issuance.

Contractor warrants that the Assigned Workers provided to Subcontractor shall meet the CBA-established qualifications for their job classification, and be assigned to the Subcontractor on the employee's existing shift. Contractor will provide Assigned Workers with all required notices of termination, or possible termination, as the result of a workforce restructuring in accordance with the provisions of state or Federal law, and Section 3161 of the National Defense Authorization Act for Fiscal Year 1993.

When Subcontractor chooses to reduce the number of Assigned Workers it has in a particular classification, individuals will be reassigned back to Contractor on the basis of their relative seniority among others holding the same classification supervised by Subcontractor, with the least senior being reassigned.

Contractor retains the right to temporarily reassign Assigned Workers from Subcontractor as short-term emergency or critical Site operating conditions dictate. Such reassignments will only be made after consultation with authorized Subcontractor representatives and written direction subsequently provided to Subcontractor. Following such temporary condition, Assigned Workers will be reassigned to Subcontractor. The impact of such temporary reassignments, if any, shall be addressed in accordance with the terms of the Changes clause of the Subcontract.

Absent an express agreement between Subcontractor, Contractor and the applicable union to the contrary, the availability of any specific Assigned Worker is not guaranteed and is subject to various factors, including without limitation, the provisions the CBA, the use of such Assigned Worker by the Contractor, or other subcontractors or others performing work at the Site.

SP.35 PROVISION OF CERTAIN PERSONNEL COVERED BY THE PROJECT LABOR AGREEMENT

The process for a Subcontractor to obtain personnel covered by the Project Labor Agreement (Workers) is for the Subcontractor first to contact the Union Halls directly. If the Union Halls fill the request for Workers, the Subcontractor is subject to the terms and conditions of the Project Labor Agreement (PLA) for All Construction Work at RFETS, including Addendum-1 for All Decommissioning and Demolition (D&D) Construction Work at the Site and Addendum-3 (Project Labor Agreement), attached. **[Attach Project Labor Agreement.]** This includes without limitation, union members of the unions listed in the PLA who are working and/or available at the RFETS in accordance with the terms of the PLA. Workers so assigned shall only perform D&D construction work as contemplated by Addendum-1 and Addendum-3 to the PLA. The Subcontractor shall be a Union Employer signatory to the PLA as necessary to obtain the services of such Workers.

If the Union Halls **cannot** fill the Subcontractor's requirements, the Subcontractor can subcontract to an outside firm. The outside firm is subject to the terms and conditions of the PLA. This includes without limitation, union members of the unions listed in the PLA who are working and/or available at RFETS in accordance with the terms of the PLA. Workers so assigned shall only perform D&D construction work as contemplated by Addendum-1 or Addendum-3 to the PLA. The outside firm shall be a Union Employer signatory to the PLA as necessary to obtain the services of such Workers.

If the Union Halls **cannot** fill the Subcontractor's requirements, the Subcontractor can contact the Contractor for Workers. If the Contractor fills the request for Workers then the Contractor is subject to the terms and conditions of the PLA. This includes without limitation, union members of the Unions listed in the PLA who are working and/or available at RFETS in accordance with the terms of the PLA. Workers so assigned shall only perform D&D construction work as contemplated by Addendum-1 or Addendum-3 to the PLA.

The following provisions define the requirements of both the Subcontractor and Contractor when the Contractor does provide Workers; however, this does not obligate or require the Contractor to provide a specific Worker or type of Workers in support of the Subcontractor:

1. The Project Labor Agreement is incorporated by reference herein as if set forth in full.
2. During the time that any Worker is assigned to the Subcontractor, all conditions of that Worker's employment will be in accordance with the terms of the applicable policies and procedures of the Contractor and the PLA. These terms shall include, but not be limited to, wages, seniority, job placement, jurisdictional assignments, grievance procedures, idle time, leaves and layoffs, hours of work, overtime provisions, premium pay procedures, arbitration rights, and general provisions. The Contractor may be consulted concerning applicable policies and procedures. The Subcontractor shall provide 24-hour notice to the Contractor before returning a Worker to the Contractor for any reason. The Subcontractor may make a recommendation; however, the Contractor is responsible for all Worker terminations.
3. Unless otherwise specifically provided in a written agreement between the Contractor and the Subcontractor, the Subcontractor shall be responsible to the Contractor for all costs, expenses, and liability associated with the Subcontractor's use of a Worker, including requirements of the PLA, and the acts or omissions of the Subcontractor or any of its servants, agents, subcontractors, or employees, including other Workers assigned by the Contractor to the Subcontractor. The assignment of Workers as requested by Subcontractor shall not relieve Subcontractor of any responsibility for scope, schedule, budget, or completion of the work as specified in the Subcontract. Contractor shall charge such costs, expenses, and liability associated with Subcontractor's use of a Worker, including salary, fringe, and related costs to the Subcontractor, which shall be offset against the Subcontract price.
4. Subcontractor shall require its Workers to comply with all applicable Federal, state, and local statutes, ordinances, regulations, and rules pertaining to occupational safety and health including rules and practices required by DOE, the Contractor, and Subcontractor. Subcontractor shall provide a suitable place of employment for its Workers to perform work. Further, unless stated otherwise elsewhere in the Subcontract, Subcontractor shall provide all materials, supplies, facilities, space—including lunch room, change room, lockers—and equipment necessary for its Workers to perform their assigned duties. The Contractor will provide each Worker with the following protective equipment: hard hat, safety glasses, and steel-toed leather shoes. All additional protective equipment and replacement protective equipment is the responsibility of the Subcontractor. The Subcontractor is responsible for ensuring compliance with all applicable safety and health requirements and regulations, safety and health oversight, inspections, and audits. Subcontractor shall maintain an accident reporting system acceptable to the Contractor and shall immediately forward to Contractor a copy of each accident report involving injuries to or death of any Worker furnished hereunder. Subcontractor shall be responsible for maintaining the OSHA 100 Form and recording and posting any reportable accidents and injuries to a Worker on its OSHA 200 Form.
5. During term of assignment to Subcontractor, the risk of any loss, damage, or liability arising out of the actions of the Worker shall be with and upon the Subcontractor and not with and upon the Contractor.

6. The Contractor shall be responsible for the payment of all compensation and other benefits to the Workers and for the required withholding; including applicable taxes, relating to compensation and other benefits paid to the Worker. The charge-out rate for the Worker shall include such costs.
7. The Subcontractor shall supply to the Contractor, in such form and substance and for such time intervals as the Contractor shall reasonably require, reports detailing the hours worked by each Worker, the task numbers or other work/project designations assigned to that Worker's hours, and any other similar information reasonably requested by the Contractor.
8. The Subcontractor shall cooperate fully and at its own expense with the Contractor in resolving all disputes with a Worker or the Worker's union, and shall bear the cost of any decision or award resulting from the resolution of a dispute under the provisions of the PLA. The provisions of this paragraph are without prejudice to Contractor's other rights as established and set forth in this Subcontract.
9. The Subcontractor shall be solely responsible for proving the proper charge numbers to the Workers; reviewing, approving, and signing the timecards; and transmitting the timecards to the Contractor.
10. The Contractor shall be responsible to provide fully trained Workers and the Contractor shall pay for all required training time and materials for all Workers. The Subcontractor shall allow time for the Workers to attend the required training.

SP.36 RADIOLOGICAL HEALTH REQUIREMENTS

General

The Subcontractor (including all lower-tier subcontractors) shall ensure the following requirements are met when performing work in radiological areas at RFETS to ensure compliance with the personnel monitoring and recordkeeping requirements of 10 CFR 835. Radiological areas for the purpose of this clause are those areas that must be posted as a "Radiation Area," "High Radiation Area," "Very High Radiation Area," "Contamination Area," "High Contamination Area," or "Airborne Radioactivity Area" in accordance with 10 CFR 835 § 835.603 or posted as a "Radiological Buffer Area" in accordance with Article 233 of the RFETS Radiological Control Manual.

Recordkeeping Requirements

The Subcontractor shall maintain records for each employee that demonstrate compliance with all requirements shown below. These records shall be retained for three (3) years after final payment for this Subcontract, and shall be made available for the Contractor's review upon request.

In-Processing Requirements

The Subcontractor shall—

1. ensure all Subcontractor employees working in radiological areas at RFETS who require a dosimeter (TLD) badge, in-process with the External Dosimetry and Radiological Records sections before beginning the work. The Subcontractor shall provide the External Dosimetry section (303-966-2736) with twenty-four (24) hour verbal notice when it intends to have ten (10) or more employees in-process on the same day.
2. ensure all Subcontractor employees provide information requested from both the External Dosimetry and Radiological Records sections (i.e., address, year-to-date dose information, etc.). Subcontractor employees who fail or refuse to provide the requested information will not be issued a dosimeter (TLD) badge and will be disqualified from performing radiological work at the RFETS.
3. ensure Radiological Worker II qualified Subcontractor employees working in radiological areas at RFETS in process with the External Dosimetry, Internal Dosimetry and Radiological Records sections for entry into the Routine Bioassay Program. The Subcontractor shall ensure Radiological Worker II qualified Subcontractor employees comply with the entrance bioassay requirements specified by the Internal Dosimetry section. These requirements may include urine sampling and/or lung counting. Subcontractor employees who fail or refuse to provide any of the requested bioassays shall have their dosimeter (TLD) badge revoked and will be disqualified from performing radiological work at the RFETS. Unless the Internal Dosimetry section grants an exemption, entrance bioassay requirements shall be completed before beginning work in radiological areas. Lung counting requires at least fourteen (14) calendar days advanced notice.
4. ensure Radiological Worker II qualified Subcontractor employees classified as "Visitors" (i.e., employees who are at the RFETS for a tour, walk-through inspection, etc., and will not be performing any "hands-on" work or entering any High Contamination Areas or Airborne Radioactivity Areas) who do not desire to be entered into the Routine Bioassay Program, decline participation in writing to the Internal Dosimetry section. Radiological Worker II qualified Subcontractor employees classified as "Visitors" who decline participation in the Routine Bioassay Program will be issued a dosimeter (TLD) badge with an expiration date and a "V" number.

Ongoing Maintenance Requirements

The Subcontractor shall—

1. ensure dosimeter (TLD) badges are used and stored by Subcontractor employees in accordance with RFETS requirements.
2. ensure dosimeter (TLD) badges are returned to the designated storage location board when not being worn.
3. ensure Subcontractor employees notify the External Dosimetry section prior to relocating their dosimeter (TLD) badges to another storage location board.
4. ensure the External Dosimetry section is immediately notified of any lost, missing, or damaged dosimeter (TLD) badges. The Subcontractor may be assessed \$550.00 for each dosimeter (TLD) badge found to be damaged or not returned to the External Dosimetry section. The charge shall be deducted from payments otherwise due the Subcontractor.
5. ensure Subcontractor employees who are entered in the Routine Bioassay Program notify the Internal Dosimetry section (303-966-4172) when their RFETS mailing address (i.e., building number) or their manager changes.
6. ensure Subcontractor employees either respond to requests for routine urine samples and/or lung counts by the dates shown on the request card, or contact the Internal Dosimetry section for an extension of time. If the Subcontractor employee fails to respond to a request for routine bioassay, a second request will be sent to the manager specified in the Internal Dosimetry section's records. If the Subcontractor's employee fails to respond to the second request for a routine bioassay, the employee's dosimeter (TLD) badge will be revoked and the employee will be disqualified from performing radiological work at RFETS.
7. ensure Subcontractor employees submit special bioassay samples when requested by Internal Dosimetry (as the result of a potential intake accident—contamination, wound, airborne radioactivity, etc.), and ensure employees are restricted from radiological work until the requested samples are provided. The Subcontractor shall comply with any restrictions imposed on its employees. This may include restrictions until all sample results are received for high-level potential intakes.
8. ensure Subcontractor employees are made available at the Subcontractor's expense, both during and after the period of performance of this subcontract, for interview or bioassay sampling. This sampling may include lung counting at RFETS, if required by the Internal Dosimetry section in the event of an on-going internal exposure investigation or an external dose reconstruction.

Out-Processing Requirements

The Subcontractor shall—

1. ensure Subcontractor employees who end their employment at the RFETS out-process with the Radiological Records section and be given an opportunity to request either a termination dose estimate and/or a termination dose report. The employee or the Subcontractor shall provide each departing employee's forwarding address to the Radiological Records section so the Contractor can send the Subcontractor employee an Annual Summary Dose Report ("Report Card").
2. ensure Subcontractor employees return their dosimeter (TLD) badge to the External Dosimetry section during their out-processing. Subcontractor may be assessed \$550.00 for each dosimeter badge Subcontractor employees fail to return. This charge shall be deducted from payments otherwise due the Subcontractor. In addition, employees who fail to return the dosimeter (TLD) badge at the end of employment at RFETS may be ineligible for future work at RFETS.
3. ensure that Subcontractor employees who require an exit bioassay out-process with the Internal Dosimetry section. This includes employees who are currently Radiation Worker II qualified, were formerly Radiation Worker II qualified, or were in the bioassay program at any point in time (i.e., former "hands-on" workers even though they were not performing work under this Subcontract as Radiation Worker II qualified). The exit bioassay method shall be as specified by the Internal Dosimetry section and shall be performed after the completion of all work for which there is a potential for intake of radioactive materials. The Subcontractor shall contact the Internal Dosimetry section at least fourteen (14) calendar days in advance of any employee's departure to determine whether an exit bioassay is required. If an exit bioassay is required, the Subcontractor shall ensure that its employees comply with the exit bioassay instructions from the Internal Dosimetry section.
4. ensure Subcontractor employees do not re-enter Contamination Areas, High Contamination Areas, and Airborne Radioactivity Areas after completion of the exit bioassay. Subcontractor may be assessed \$750.00 per occurrence for failure to ensure Subcontractor employees comply with the exit bioassay requirements. This charge shall be deducted from payments otherwise due the Subcontractor.

The Subcontractor shall flow down this clause to all its lower-tier subcontractors who will perform work in radiological areas at the RFETS.

SP.37 PAYMENT AND PERFORMANCE BONDS

Subcontractor shall furnish Performance and Payment Bonds described below as security for the faithful performance and payment of all Subcontractors' obligations under the Subcontract. These bonds shall remain in effect at least until one year after

the date when final payment becomes due, except as otherwise provided by law or regulation or the Subcontract. All bonds shall be substantially in the form and format of the American Institute of Architects (AIA) Document Form A311 or as otherwise approved in writing by the SA. All bonds shall be issued by a firm that has a rating of A- or greater with A.M. Best. All bonds signed by an agent must be accompanied by a certified copy of the authority to act.

Subcontractor shall furnish a Payment Bond, with the penal sum of such Payment Bond determined as follows:

1. 50 percent of the Subcontract Price where such amount does not exceed \$1,000,000
2. 40 percent of the Subcontract Price where such amount is more than \$1,000,000 but less than \$5,000,000
3. \$2,500,000 where the Subcontract Price exceeds \$5,000,000.

Subcontractor shall furnish a Performance Bond equal to the initial Subcontract Price.

If the surety on any bond furnished by Subcontractor is declared a bankrupt or becomes insolvent or its right to do business is terminated, Subcontractor shall, within five days thereafter, substitute another bond and surety, both of which must be acceptable to Contractor.

If any surety upon any bond furnished in connection with this Subcontract becomes unacceptable to Contractor or if any such surety fails to furnish reports as to its financial condition from time to time as requested by Contractor, or if the Subcontract price is increased to such an extent that the penal sum of any bond becomes inadequate as set forth above, Subcontractor shall promptly furnish such additional security as may be required to protect the interest of Contractor and of persons supplying labor and materials in the execution of the Subcontract's Statement of Work.

SP.38 QUALITY ASSURANCE REQUIREMENTS

The services provided under this Subcontract shall be provided in accordance with Subcontractor's Quality Assurance system, which has been evaluated and approved in writing by Contractor's Quality Assurance organization. The Subcontractor shall maintain and implement this quality system in accordance with the intent of DOE Order 414.1A and 10 CFR 830.122, as applicable. The Subcontractor shall extend applicable requirements to all lower-tier subcontractors, including the Contractor's right of access to facilities and records.

The Contractor shall have right of access to Subcontractor's, and any lower-tier subcontractor's facilities and records for inspection or audit by Contractor, its designated representative, and/or other parties authorized by Contractor at mutually agreed times. This shall include, but not be limited to, the right to audit material, test, inspection services, and quality records; make surveillance visits during manufacturing; and witness tests to the extent Contractor deems necessary throughout the life of the Subcontract to ensure that work is being performed in accordance with applicable requirements.

Subcontractor shall not make any substitutions without specific written approval of the Contractor. This includes any changes to the approved Subcontractor design, specifications, and drawings.

SP.39 DISPOSAL OF WASTE

Subcontractor (including all lower-tier subcontractors) is responsible for maintaining compliance with all Federal, state, and local laws, and all Site requirements in the management and disposal of any waste generated in the performance of this Subcontract. Waste, for purposes of this clause, means any material that has been discarded, abandoned, recycled, reclaimed, or is no longer being used for its originally intended purpose and is to be managed at an off-Site waste management facility (including treatment, storage, disposal, recycling, reclaiming, and/or processing facility).

In accordance with RFETS Procedure 1-MAN-037-OWMP, Offsite Waste Management Program, before entering into an agreement or arrangement with a waste management facility, Subcontractor shall ensure that the facility has been approved for use by the Contractor. Subcontractor is prohibited from using a waste broker unless Contractor has granted specific written authorization for the use of the broker. Additionally, all commercial motor carriers used for the off-Site shipment of waste shall be approved in accordance with Site Procedure I-T95-Traffic-120, or the most current RFETS off-Site transportation requirements manual. The approval or denial of any facility or commercial carrier shall be at the sole discretion of Contractor. Contractor shall not be liable to Subcontractor for any costs or damages of any kind if Contractor refuses or fails to approve the use of a Facility or commercial carrier.

All off-Site waste shipments must be coordinated with the Site Traffic Department before leaving the Site. Motor carriers, vehicle operators, motor vehicles, and waste packages shall be subject to inspection and evaluation before loading. Any delays encountered or extra costs incurred by Subcontractor due to failure to comply with this requirement shall be the sole responsibility of Subcontractor.

The disposal of any waste with scrap value must be handled in accordance with the Contractor's Property Disposal Manual and in those situations where the property has been sold and title transferred on-Site, the above limitations on use of approved facilities are not applicable.

SP.40 MATERIALS

All equipment, material, and articles incorporated into the work covered by this Subcontract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this Subcontract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Subcontractor may, at its option, use any equipment, material, article, or process that, in the judgment of the Contractor, is equal to that named in the specifications, unless otherwise specifically provided in this Subcontract.

The Subcontractor shall obtain the Contractor's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Subcontractor provide full information concerning the material or articles, including the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this Subcontract or by the Contractor, the Subcontractor shall also obtain the Contractor's approval of the material or articles that the Subcontractor contemplates incorporating into the work. When directed to do so, the Subcontractor shall submit samples for approval at the Subcontractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

SP.41 SITE ACCESS AND TRANSPORTATION REQUIREMENTS

General

Vehicles entering the Site shall comply with Site traffic controls and posted speed limits; failure to do so may result in denial of access to the Site. In the event of a security or emergency response occurring in the vicinity of the Subcontractor or delivery vehicle, pull to the side of the road, stop the vehicle, and yield to emergency response vehicles.

Point of Entrance and Instructions

Vehicles must enter the Site at Highway 93, West Gate Entrance. After the driver is authorized to enter the Site, the driver may proceed directly to the job site, unless the vehicle is transporting Hazardous Materials as defined in 29 CFR Section 1910.1200, in which case the driver shall comply with the requirements in the clause in the Subcontract General Provisions, Hazardous Materials Requirements.

Security Requirements

The following shall not be brought onto the Site without the prior approval of the Contractor:

1. any dangerous weapon, explosive, or other dangerous instrument or material likely to product substantial injury or damage to persons or property
2. illegal drugs, drug paraphernalia, and alcoholic beverages
3. other articles prohibited by law
4. children under the age of 18
5. pets.

In addition, all photography is controlled on the Site. Cameras may not be used without a Rocky Flats Camera Pass.

High Security Area Prohibited Items

The following privately owned articles shall not be brought into high security areas on the Site unless properly authorized in advance by the Contractor:

1. privately owned recording equipment such as audio, video, optical, or data
2. electronic equipment with data exchange port capable of being connected to automated information system equipment (not including personal organizers, calculators, wrist watches, and data diaries, provided such equipment is not operated in close proximity to any classified discussions or data processing and remains under the control of the owner)
3. cellular telephones
4. radio frequency transmitting equipment
5. computers and associated media.

Security and Safety Inspections

Inspections in search of prohibited items are conducted at the West Gate upon entrance as well as at random at any point while a vehicle is on Site. Vehicles found to be transporting prohibited item(s) shall be denied access to the Site. Commercial vehicles are subject to safety and compliance inspections at any time while on the Site. Unsafe vehicles will be removed.

Photo Identification

All persons entering the Site must have official photo identification in their possession (valid state driver's license, military identification card, valid state identification card, US Immigration and Naturalization Foreign National Registration card, or passport).

Non-US Citizens

Site access by persons who are not US Citizens requires advance approval and a special security plan. The only exception is that non-US citizens possessing valid US Immigration and Naturalization identification permitting work in the US (Resident Alien ID, "Green Card," Work Permit), may be badged and must obtain a visitor badge or a Department of Energy (DOE) Standard Badge prior to entering the Site.

Visitor Badges and DOE Standard Badges are issued at the Badging Office located in Building 60 outside the west entrance to the Site. Badging Office hours are 6:30 am to 4:00 pm, Monday through Thursday, and 6:30 am to 3:00 pm on working alternate Fridays.

Access Badges and Parking Permits

Access badges and parking permits for Subcontractor personnel requiring recurring access to RFETS are issued by Personnel Security in Building 060 near the west entrance of the Site. Badging Office hours are currently 6:30 am to 4:00 pm, Monday through Thursday, and 6:30 am to 3:00 pm, on working alternate Fridays. Contact (303) 966-6169 to verify that there has been no change.

The Subcontractor shall—

1. ensure each Subcontractor and lower-tier subcontractor employee, requiring access to the Site obtains an access badge and parking permit.
2. ensure that each Subcontractor and lower-tier subcontractor employee is personally responsible for the employee's access badge and ensure all lost access badges are reported to Personnel Security at the West entrance immediately after the loss is discovered, and return access badge to the Building 060 issuing office when the—
 - a. Subcontract period of performance has expired
 - b. Badge is no longer required
 - c. Badge becomes void for any reason.

Personnel Security shall provide subcontractor employee a receipt when employee's badge is surrendered to Personnel Security.

If an individual forgets or loses an access badge three (3) times within twelve (12) consecutive months, future access to the Site may be denied to the individual.

Subcontractors will be assessed \$250.00 for each access badge not returned as required above. This charge shall be deducted from payments otherwise due the Subcontractor.

Except as otherwise authorized in writing by the Contractor, the Subcontractor shall insert this provision into all lower-tier subcontracts and purchase orders under this Subcontract.

SP.42 CONTRACTOR FURNISHED SERVICES AND ITEMS

The Contractor shall deliver to the Subcontractor, at the time and locations stated in this Subcontract, the Contractor Furnished Services and Items (CFS/I) described as attached hereto. If such services or items, suitable for their intended use, are not delivered to the Subcontractor, the Contractor shall equitably adjust affected provisions of this Subcontract in accordance with the Changes clause when –

1. The Subcontractor submits a timely written request for an equitable adjustment; and
2. The facts warrant an equitable adjustment.

Title to Contractor-furnished items shall remain in the Contractor. The Subcontractor shall use the Contractor-furnished items only in connection with this Subcontract. The Subcontractor shall maintain adequate property control records in accordance with sound industrial practice and will make such records available for Contractor inspection at all reasonable times.

Upon delivery of Contractor-furnished items to the Subcontractor, the Subcontractor assumes the risk and responsibility for its loss or damage, except—

1. for reasonable wear and tear;
2. to the extent property is consumed in performing this subcontract; or
3. as otherwise provided for by the provisions of this subcontract.

Upon completing this Subcontract, the Subcontractor shall follow the instructions of the Contractor regarding the disposition of all Contractor-furnished items not consumed in performing this Subcontract or previously delivered to the Contractor. The Subcontractor shall prepare for shipment, deliver to the Contractor, or dispose of the Contractor-furnished items, as may be directed or authorized by the Contractor. The net proceeds of any such disposal shall be credited to the Subcontract price or shall be paid to the Contractor as directed by the Contractor.

Contractor's commitment to provide CFS/I including the specific services, items, availability, lead time, and pricing are set forth in the CFS/I attachment. Contractor's commitment to provide CFS/I under this Subcontract is based upon the Contractor-approved schedule including time-phased CFS/I. Contractor shall provide the baseline approved CFS/I identified on the CFS/I attachment to the Subcontractor at no cost to the Subcontractor.

Each updated schedule submittal shall be reviewed by Contractor. If Contractor cannot provide the requested CFS/I, Contractor will identify in writing no later than ____ *[Insert number of days]* calendar days after receipt of Subcontractor's request that the requested CFS/I cannot be provided.

Any increases to Subcontractor's requested CFS/I from that included in the baseline schedule, including type, quantity, duration, etc. shall be deducted from the Subcontract price at the rates set forth on the CFS/I attachment. Failure of the Contractor to provide additional quantities shall not be considered an excusable delay, nor shall the Subcontractor be entitled to an equitable adjustment based on the Contractor's failure to provide additional quantities of CFS/I over the quantities listed in the CFS/I attachment.

CFS/I pricing deductions for using the CFS/I above the amounts specified in CFS/I attachment shall be tracked by Contractor and deducted from payments due the Subcontractor. The CTR shall provide accounting charge numbers or other similar administrative mechanisms to the Subcontractor for the purpose of tracking actual quantities of CFS/I used.

SP.43 PATENTS

If this Subcontract is with a small business or domestic non-profit organization, as those terms are defined in the clause, Patent Rights and obligations of the parties under this Subcontract are defined by the terms of DEAR 952.227-11, Patent Rights Retention by the Contractor (short form) (Mar 1995), which is incorporated herein by reference and made part hereof, if this is a subcontract with a small business or domestic non-profit organization as those terms are defined in the clause. If this Subcontract is not with a small business or domestic nonprofit organization, the Patent Rights and obligations of the parties are defined by the clause DEAR 952.227-13, Patent Rights – Acquisition by the Government (Sep 1997), which is incorporated herein by reference and made part hereof. The Subcontractor may obtain the full text of the referenced clauses at <http://www.arnet.gov/far/>.

SP.44 KEY PERSONNEL

Subcontractor Key Personnel, if any, are specified in an attachment hereto. *[Insert an attachment for the Key Personnel to be listed.]* Such personnel are considered essential to the work being performed hereunder. Before removing any of these personnel from performing on this Subcontract, the Subcontractor shall notify the Contractor reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this Subcontract. No change shall be made without the written consent of the Contractor.

SP.45 MODIFICATIONS TO GENERAL PROVISIONS

SP.46 SPECIAL PROVISIONS ATTACHMENTS *[List attachments referenced in the SPs—if the clause is checked that includes an attachment. Do not include Exhibits referenced in the General Provisions; those should be listed on the Subcontract Signature Document, not here. Only include those that are appropriate, in accordance with provisions checked.]*

SP.47 SPECIAL PROVISIONS INCORPORATED BY REFERENCE

The FAR and DEAR clauses below that have no blank preceding the reference are applicable to all construction and demolition subcontracts. Those clauses preceded by a blank space are applicable only if an "X" appears in the blank. All applicable FAR and DEAR clauses are incorporated herein by reference with the same force and effect as if printed in full text. Wherever necessary to make the context of the clauses set forth below applicable to this Subcontract, the term "Contractor" shall mean "Subcontractor," the term "subcontractor" shall mean "lower-tier subcontractor", the term "Contract" shall mean this Subcontract, the term "subcontract" shall mean "lower-tier subcontract", and where noted or necessary to derive proper meaning, the terms "Government", "Contracting Officer", and equivalent phrases shall mean Contractor's representative. Except the terms Government and Contracting Officer do not change—

1. in the phrases "Government Property", "Government Furnished Property", and "Government Owned Property",
2. in the patent clauses incorporated herein;

3. when a right, act, authorization, or obligation can be granted or performed only by the Government's duly authorized representative;
4. when title to property is to be transferred directly to the Government;
5. when access to proprietary financial information or other proprietary data is required except for authorized audit rights; and
6. where specifically modified herein.

The following FAR and DEAR clauses that have no blank spaces are applicable to all construction and demolition subcontracts. The clauses that are preceded by a blank space are applicable only if an "X" appears in the blank space. Full-text of the referenced clauses may be found at <http://arnet.gov/far> for FAR clauses and <http://professionals.pr.doe.gov> for DEAR clauses.

FAR 52.222-6	Davis-Bacon Act (Feb 1995)
FAR 52.222-7	Withholding of Funds (Feb 1988)
FAR 52.222-8	Payrolls and Basic Records (Feb 1988)
FAR 52.222-9	Apprentices and Trainees (Feb 1988)
FAR 52.222-10	Compliance with Copeland Act Requirements (Feb 1988)
FAR 52.222-11	Subcontracts (Labor Standards) (Feb 1988)
FAR 52.222-12	Contract Termination – Debarment (Feb 1988)
FAR 52.222-13	Compliance with Davis-Bacon and Related Act Requirements (Feb 1988)
FAR 52.222-14	Disputes Concerning Labor Standards (Feb 1988)
FAR 52.222-15	Certification of Eligibility (Feb 1988)
___ FAR 52.215-10	Price Reduction for Defective Cost or Pricing Data (Oct 1997) <i>(Include this clause if cost or pricing data are required to be submitted.)</i>
___ FAR 52.215-12	Subcontractor Cost or Pricing Data (Oct 1997) <i>(Include if cost or pricing data are required to be submitted.)</i>
___ FAR 52.223-7	Notice of Radioactive Material (Jan 1997) <i>(Include in subcontracts for supplies that are or that contain (1) radioactive material requiring specific licensing under regulations issued pursuant to the Atomic Energy Act of 1954 or (2) radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries.)</i>
___ FAR 52.224-1	Privacy Act Notification (Apr 1984) <i>(Include if Subcontractor will be required to design, develop, or operate a system of records on individuals to accomplish an agency function.)</i>
___ FAR 52.224-2	Privacy Act (Apr 1984) <i>(Include if Subcontractor will be required to design, develop, or operate a system of records on individuals to accomplish an agency function.)</i>
___ FAR 52.227-4	Patent Indemnity—Construction Contracts (Apr 1984) <i>(Include in demolition subcontracts. Also include in construction subcontracts unless it is determined that the construction will necessarily involve the use of structures, products, materials, equipment, processes, or methods that are nonstandard, noncommercial, or special.)</i>
___ FAR 52.230-2	Cost Accounting Standards (Apr 1998) <i>(Include unless exempt under FAR Part Appendix 9903.201-1. Exempt contracts and subcontracts include sealed bid contracts; negotiated contracts and subcontracts not in excess of \$500,000; contracts and subcontracts with small businesses; contracts or subcontracts with foreign governments or their agents or instrumentalities; contracts or subcontracts in which the price is set by law or regulation; firm fixed-price or fixed-price with economic price adjustment (provided that price adjustment is not based on actual costs incurred) contracts and subcontracts for the acquisition of commercial items; contracts or subcontracts of less than \$7.5 million, provided that, at time of award, the business unit is not currently performing any CAS-covered contracts or subcontracts valued at \$7.5 million or greater; certain contracts or subcontracts with the United Kingdom or the NATO PHM Ship under certain circumstances; contracts or subcontracts executed and performed outside the US, its territories, or possessions; or firm fixed-price contracts or subcontracts awarded on the basis of adequate price competition without submission of cost or pricing data.)</i>
___ FAR 52.230-6	Administration of Cost Accounting Standards (Nov 1999) <i>(Include if FAR 52.230-2 is included.)</i>

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- ___ FAR 52.245-2 Government Property (Fixed Price Contracts) (Dec 1989) *(Include if Contractor or Government property is furnished to Subcontractor in the performance of the Subcontract.)*
 - ___ FAR 52.245-18 Special Test Equipment *(Include if Subcontract requires the acquisition or fabrication of new special test equipment.)*
 - ___ FAR 52.245-19 Government Property Furnished "As Is" (Apr 1984) *(Include if Contractor or Government property is furnished to Subcontractor in the performance of the Subcontract.)*
 - ___ FAR 52.247-63 Preference for U.S. Flag Carriers (Jan 1997) *(Include if the Subcontract may involve international air transportation.)*
 - ___ DEAR 952.204-70 Classification/Declassification (Sep 1997) *(Include if Subcontract involves access to classified information.)*
 - ___ DEAR 952.204-74 Foreign Ownership, Control, or Influence over Contractor (Apr 1984) *(Include if Subcontract involves access to classified information or a significant quantity of Special Nuclear Material.)*
 - ___ DEAR 952.209-72 Organizational Conflicts of Interest (Alt 1) (Jun 1997) *(Include if Subcontract is expected to exceed \$100,000 for Contractor Advisory and Assistance Services as that term is defined in FAR 37.201. Also include the appropriate representation and certification.)*
 - ___ DEAR 970.5204-59 Whistleblower Protection for Contractor Employees (Apr 1999) *(Include if work is to be performed on the Site.)*
 - ___ DEAR 952.217-70 Acquisition of Real Property (Apr 1984) *(Include if Subcontractor may acquire real property.)*
 - ___ DEAR 952.237-70 Collective Bargaining Agreements—Protective Forces (Aug 1993) *(Include in Subcontracts for protective services.)*